

IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

THURSDAY, THE SEVENTEENTH DAY OF MARCH
TWO THOUSAND AND FIVE

PRESENT

THE HON'BLE MS JUSTICE G.ROHINI

WRIT PETITION NO : 5398 of 2005

Between:

Narva Pitamber, s/o late Venkatadri,
r/o 13-6-159/1, Uppara Basti, Tallagadda, Karwan, Hyderabad.

... PETITIONER

AND

- 1 The Commissioner, Municipal Corporation of Hyderabad, Tank Bund, Hyderabad.
- 2 Addl.Commissioner, Circle-IV, Municipal Corporation of Hyderabad, Khairtabad, Hyderabad.
- 3 Asst.Commissioner, Circle-IV, Municipal Corporation of Hyderabad, Khairtabad, Hyderabad.

...RESPONDENTS

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court may be pleased to issue writ, order or direction, more particularly one in the nature of "WRIT OF MANDAMUS", declaring the action of the respondents in demolishing the part of house bearing municipal number 13-6-159/1, situated Uppari Basti, Tallagadda, Karwan, Hyderabad without accepting explanation to the show cause notice dt.11-3-2005, without passing final order as illegal, arbitrary and violative of principles of natural justice and violative of Art.14, 19 and 21 of Constitution of India and consequently direct the respondents to pay the compensation damages for illegal demolition of the part of building.

Counsel for the Petitioner: MR.M.LAXMAN

Counsel for the Respondents: MR.RAMA RAO GHANTA

The Court at the stage of admission made the following:

ORDER:

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This writ petition is filed aggrieved by the action of the respondents in demolishing part of the house bearing Municipal No.13-6-159/1 of Uppari Basti, Tallagadda, Karwan, Hyderabad, without accepting explanation to the show cause notice dated 11-03-2005 and without passing final order as arbitrary and illegal.

Admittedly, the petitioner was served with a notice dated 11-03-2005 issued under Section 452 of the Hyderabad Municipal Corporation Act, 1955 calling upon the petitioner to show cause within ten days from the date of receipt of the said notice as to why the portion of the building which is found contrary to the sanctioned plan should not be removed.

The petitioner states that immediately on receipt of the said notice, he submitted the necessary explanation on 15-03-2005. However, the respondents refused to accept the said explanation, and on the other hand, started demolition of the building in question and a part of the structure has already been demolished. Hence, this writ petition.

This Court, by order dated 16-03-2005, while granting time to the learned standing counsel for getting instructions, granted stay of demolition of the structures in question.

Heard the learned counsel for both the parties and perused the material on record.

The specific case of the petitioner is that in response to show cause notice he

has submitted the explanation but the respondents refused to receive the same. A copy of the explanation is filed in the material papers along with the writ petition. Hence, I am of the view that it would be appropriate for the respondents to take into consideration the explanation of the petitioner and pass appropriate orders and till such time the respondents ought not to have resorted to demolition of the structures.

Accordingly, the writ petition is disposed of with a direction to the respondent-Corporation to consider the explanation of the petitioner dated 15-03-2005, which is filed at page No.13 of the material paper along with this writ petition and pass appropriate orders, in accordance with law and communicate the same to the petitioner. Till such time, there shall not be any demolition of the structures in question.

The Writ Petition is accordingly disposed of. No order as to costs.

G. ROHINI, J

Dated: 17-03-2005

LSK

ASSISTANT REGISTRAR

To

- 1 The Commissioner, Municipal Corporation of Hyderabad, Tank Bund, Hyderabad.
- 2 Addl.Commissioner, Circle-IV, Municipal Corporation of Hyderabad, Khairtabad, Hyderabad.
- 3 Asst.Commissioner, Circle-IV, Municipal Corporation of Hyderabad, Khairtabad, Hyderabad.
- 4 Two C.D. copies.